

By: Deuell

S.B. No. 487

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of construction and program management for capital improvement projects of school districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 8, Occupations Code, is amended by adding Chapter 1306 to read as follows:

CHAPTER 1306. SCHOOL CONSTRUCTION MANAGER-AGENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Construction and program management" means the management of the planning, design, and construction of a capital improvement project or program of capital improvement projects, including project scope development, land acquisition, permitting, cash-flow management, design acquisition and management, cost estimation, the writing of bid packages, cost control, time and quality management, contract administration, risk management, and dispute avoidance and resolution.

(3) "Department" means the Texas Department of Licensing and Regulation.

(4) "Executive director" means the executive director of the department.

1 (5) "School construction manager-agent" means a
2 person registered to engage in the practice of construction and
3 program management for a school district in this state on:

4 (A) a capital improvement project; or

5 (B) a program of capital improvement projects.

6 [Sections 1306.002-1306.050 reserved for expansion]

7 SUBCHAPTER B. REGISTRATION REQUIREMENTS

8 Sec. 1306.051. REGISTRATION REQUIRED. A person may not
9 engage in the practice of construction and program management for a
10 school district in this state unless the person:

11 (1) holds a certificate of registration issued under
12 this chapter; or

13 (2) is an officer or employee of a school district in
14 this state and engages in the practice of construction and program
15 management for the school district employer.

16 Sec. 1306.052. REGISTRATION APPLICATION; FEE. An applicant
17 for registration under this chapter must:

18 (1) submit an application on a form prescribed by the
19 executive director; and

20 (2) pay the application fee set by the commission.

21 Sec. 1306.053. ELIGIBILITY FOR REGISTRATION. To be
22 eligible for registration as a school construction manager-agent,
23 an applicant must:

24 (1) be certified by:

25 (A) the Construction Management Association of
26 America if the executive director determines that the requirements
27 for certification by that organization are sufficient to protect

1 the public; or

2 (B) a national construction and program
3 management organization recognized by the executive director;

4 (2) submit to the department the names and addresses
5 of five school district clients to verify that the applicant has at
6 least 10 years' experience in the field of construction and program
7 management;

8 (3) hold a bachelor's or graduate degree in
9 construction management, architecture, engineering, or
10 construction science and have at least four years of verified
11 experience in construction management for school districts; or

12 (4) hold an associate's degree or certificate in
13 construction management, architecture, engineering, or
14 construction science and have at least six years of verified
15 experience in construction management for school districts.

16 Sec. 1306.054. ISSUANCE OF CERTIFICATE OF REGISTRATION.
17 The executive director shall issue a certificate of registration to
18 an applicant who qualifies for registration.

19 Sec. 1306.055. REQUIRED INSURANCE. A holder of a
20 certificate of registration or the firm employing the person must
21 maintain professional liability insurance in the amount of at least
22 \$1 million for each occurrence.

23 Sec. 1306.056. TERM OF CERTIFICATE OF REGISTRATION. A
24 certificate of registration is valid for a term established by the
25 executive director.

26 [Sections 1306.057-1306.100 reserved for expansion]

SUBCHAPTER C. RENEWAL OF CERTIFICATE OF REGISTRATION

Sec. 1306.101. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a certificate of registration may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

(b) A person whose certificate has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(c) A person whose certificate has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures for an original certificate.

Sec. 1306.102. CONTINUING EDUCATION. (a) The department may recognize, prepare, or offer continuing education for holders of certificates of registration.

(b) Participation in continuing education programs is voluntary unless the executive director by rule determines that the department should require participation.

SECTION 2. Section 44.037, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as

1 follows:

2 (b) A construction manager-agent is a sole proprietorship,
3 partnership, corporation, or other legal entity that complies with
4 Chapter 1306, Occupations Code, and that provides consultation to
5 the school district regarding construction, rehabilitation,
6 alteration, or repair of the facility. A district using the
7 construction manager-agent method may, under the contract between
8 the district and the construction manager-agent, require the
9 construction manager-agent to provide:

10 (1) any service defined as construction and program
11 management under Section 1306.001, Occupations Code;

12 (2) administrative personnel;~~i~~~~]~~

13 (3) equipment necessary to perform duties under this
14 section;~~i~~~~]~~ and

15 (4) on-site management and other services specified in
16 the contract.

17 (b-1) A construction manager-agent represents the district
18 in a fiduciary capacity.

19 SECTION 3. (a) A person is not required to obtain a
20 certificate of registration under Chapter 1306, Occupations Code,
21 as added by this Act, until January 1, 2008.

22 (b) Notwithstanding Subsection (a) of this section, a
23 person who is engaged in the practice of construction and program
24 management before January 1, 2008, and who applies for a
25 certificate of registration under Chapter 1306, Occupations Code,
26 as added by this Act, before that date may continue to engage in
27 that practice until the executive director of the Texas Department

1 of Licensing and Regulation acts on the person's application.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2007.